

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

Quintin Ray,

Plaintiff,

vs.

**RENAISSANCE ST. LOUIS AIRPORT
HOTEL (SCHULTE HOSPITALITY
GROUP),**

Defendant.

Case No. 4:18cv804 SNLJ

MEMORANDUM AND ORDER

Plaintiff brings this discrimination lawsuit against his former employer under Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §§ 2000e, et seq. Plaintiff filed a charge of race discrimination (the “Charge”) with the Equal Employment Opportunity Commission (“EEOC”) on or about November 11, 2016. The EEOC issued a Dismissal and Notice of Rights dated February 13, 2018. Plaintiff filed his complaint with this Court on May 25, 2018.

Defendant contends that plaintiff’s complaint should be dismissed as time-barred. (#14.) Title VII requires that a litigant bring a discrimination action within 90 days from his receipt of the EEOC’s right-to-sue letter. *Brooks v. Ferguson-Florissant Sch. Dist.*, 113 F.3d 903, 904 (8th Cir. 1997); 42 U.S.C. § 2000e-5(f)(1). The “plain meaning of the statute now provides that failure to file suit within ninety days after the receipt of a notice from the EEOC renders a plaintiff’s action untimely.” *Littell v. Aid Ass’n for*

Lutherans, 62 F.3d 257, 259 (8th Cir. 1995). Even allowing three days for plaintiff to receive the letter from the EEOC, defendant insists plaintiff's complaint must have been filed no later than May 14, 2018. Plaintiff's complaint, then, was filed 11 days too late according to plaintiff.

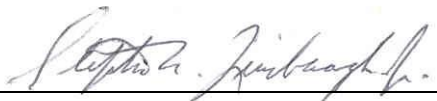
Plaintiff responds that his letter was not actually mailed to him or received by him until February 26, 2018. In support of this statement, plaintiff attaches an e-mail from an EEOC investigator, which attached the EEOC letter and also stated that the investigator "mailed off a paper copy today," February 26. Thus, plaintiff says, his 90-day deadline began to run on February 26. Ninety days from February 26 is May 27. The complaint would thus have been timely filed on May 25 under those calculations.

Notably, the defendant did not file a reply memorandum in support of its motion to dismiss. Because the Court finds that plaintiff filed his complaint within 90 days of his receipt of the EEOC letter, the defendant's motion will be denied.

Accordingly,

IT IS HEREBY ORDERED that defendant's motion to dismiss (#14) is DENIED.

Dated this 14th day of February, 2019.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE